

PT 00-53

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

COMMUNITY MEDICAL CENTER OF)		
WESTERN ILLINOIS, INC.)	A.H. Docket #	99-PT-0026
Applicant)		
)	Docket #	98-94-3
v.)		
)	Parcel Index #	09-044-087-00
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. James G. Baber, attorney at law, appeared on behalf of Community Medical Center of Western Illinois, Inc.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on June 7, 2000.

Mr. Donald G. Brown, Chief Executive Officer and President of Community Medical Center of Western Illinois, Inc. (hereinafter referred as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant is a charitable organization; secondly, whether the applicant owned this parcel during the 1998-assessment year; and lastly, whether the applicant used this parcel and the buildings thereon for charitable purposes during all or part of the 1998-assessment year.

Before May 1, 1998, the parcel here in issue was owned by the City of Monmouth. This parcel was improved with a municipal hospital known as Community Memorial Hospital. On May 1, 1998, the City of Monmouth conveyed this parcel consisting of 21.9 acres and the hospital thereon to the applicant, an Illinois not-for-profit corporation. The applicant then filed this application for exemption from property tax for this parcel.

For the purposes of this hearing this parcel is improved with a single story hospital building which contains six units or Wings. The application for exemption in addition to the hospital building also indicates that a 3,904 square foot professional building is located on this parcel. This 3,904 square foot professional building is actually a group of five modular units which are located across the parking lot from the hospital. Although the application does not mention it, there is an area of approximately 10 acres which is also on this parcel that is North of the hospital and South of Route 34 that was farmed during the period May 1, 1998, through December 31, 1998.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a charitable organization. It is also determined that the applicant owned this parcel during the period May 1, 1998, through December 31, 1998. It is finally determined that this parcel and the buildings thereon qualified for exemption from real estate taxation except for 2,305 square feet of D Wing of the hospital building and a proportionate amount of land on which D Wing was located, and the ten acres which were farmed.

I therefore recommend that Warren County Parcel Index No. 09-044-087-00 be exempt from real estate tax for the 67% of the 1998-assessment year, which is the portion of the year that the applicant owned said parcel, except for 2,305 square feet of D Wing and a proportionate amount of land on which D Wing is located, and the ten acres which were farmed. The 2,305 square feet of D Wing and a proportionate amount of land on which D Wing is located, and the ten acres which were farmed were taxable for the 67% of the 1998-assessment year that the applicant owned said parcel.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the “Department”) in this matter was established by the admission in evidence of Department’s Exhibit Nos. 1 through 6A.

2. The applicant was incorporated on August 9, 1995, pursuant to the General Not For Profit Corporation Act of Illinois for purposes which included the following:

To maintain a medical center facility organized exclusively for charitable, educational, religious or scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and, in furtherance thereof, the corporation shall be empowered to provide facilities for the accomplishment of said purpose, provided, however, that the corporation will not engage in the practice of medicine. Services shall be provided without discrimination as to sex, race, creed or national origin. (Dept. Ex. No. 2G)

3. On May 1, 1998, the City of Monmouth, owner of the parcel here in issue, and Community Memorial Hospital, a municipal hospital located on that parcel, conveyed that parcel and the improvements thereon to the applicant by a warranty deed. (Dept. Ex. No. 2F)

4. The hospital building located on this parcel is a one-story structure which contains 6 units or wings. The A Wing of the hospital contains the hospital administration department, the emergency department, the nuclear medicine department, the radiology department, and the medical records department. (Tr. p. 37)

5. The B Wing of the hospital building contains the home health department, nursing administration, management services, and the surgical suites. The acute care rooms of the hospital are located on C Wing. (Tr. p. 37)

6. The E Wing of the hospital contains the boiler room, the cafeteria, the kitchen, central storage, sterile supply, the laboratory, the pharmacy, and the physical therapy department. The F Wing of the hospital is the long-term care wing of the hospital. (Tr. p. 36)

7. The D Wing of the hospital building has been remodeled so that it can be used for physicians’ offices. (Tr. pp. 18 & 24)

8. During the period May 1, 1998, through December 31, 1998, the applicant leased 7,975 square feet of D Wing to OSF Healthcare System (hereinafter referred to as "OSF"). During that time period OSF used that area as physicians' offices for physicians who were employed by OSF. The rental payment made by OSF to the applicant during the period May 1, 1998, through December 31, 1998, was \$3,987.50 per month. During the period May 1, 1998, through December 31, 1998, the space leased by OSF was occupied by three salaried physicians. The specialty of two of these physicians was family practice, and the specialty of the third was internal medicine. OSF hired the nurses and the ancillary business staff for these physicians. OSF also did the billings and collections for these physicians. The area leased to OSF by the applicant had separate locks from the rest of D Wing and employees of OSF had the keys. (Tr. pp. 15-17, & 37-39)

9. I take Administrative Notice of Department of Revenue Exemption Certificates in Docket Nos. 99-48-96 and 92-94-30 in which the Department determined that OSF was a charitable organization. (Appl. Ex. Nos. 7 & 8)

10. During May 1998, five modular units were pulled onto this parcel. They were placed across the parking lot from applicant's hospital building. These five modular units were leased by Methodist Services, Inc. (hereinafter referred to as "Services") from the manufacturer. Services is the entity which both owns and leases property, real and personal, for Methodist Medical Center of Illinois (hereinafter referred to as "Medical Center"). These modular units were occupied by two physicians who were salaried employees of Medical Center. During the period May 1998, through December 31, 1998, these units served as offices for a full time urologist and a full time gynecologist who were employees of Medical Center. Before these modular units became physician's offices for the urologist and the gynecologist these specialties were not available on a full time basis on applicant's hospital campus in Monmouth. (Tr. pp. 30-33)

11. The applicant does not charge rent to Services for the space occupied by these units. Services pays the utilities on these units. These modular units still have the tongues and wheels

on them and are resting on concrete piers. The applicant has a verbal agreement with Services that these modular units will only be temporary. The medical practices located there are to be monitored and then will either be moved into a permanent building or into the hospital. Medical Center hired the nurses and the ancillary business staff for these physicians. Medical Center also did the billings and collections for these physicians. (Tr. pp. 30-33, & 41-44)

12. I take Administrative Notice of the Department of Revenue Exemption Certificates in Docket Nos. 98-72-42 and 86-72-193 in which the Department determined that Services and Medical Center respectively, were charitable organizations. (Appl. Ex. No. 9)

13. The application for exemption submitted by the applicant herein states that there is a 3,904 square foot professional building on this parcel occupied by Medical Center and used for doctors' offices. On December 18, 1998, the applicant filed an assessment complaint concerning a 3,904 square foot building which was erected in May 1998 and which was used as an office building. (Dept. Ex. Nos. 2 & 2B)

14. During the period May 1, 1998, through December 31, 1998, the applicant leased 1,154 square feet of D Wing to the Galesburg Clinic. The monthly rental for this space was \$610.00. The space leased by Galesburg Clinic was one office suite. During the period May 1, 1998, through December 31, 1998, this space was occupied by five different physicians with different specialties who each occupied this office suite one day a week. Galesburg Clinic hired the nurses and the ancillary business staff for these physicians. Galesburg Clinic also did the billings and collections for these physicians. The area leased to Galesburg Clinic had separate locks from the rest of D Wing and employees of Galesburg Clinic had the keys. (Tr. pp. 22 & 24, 39 & 40)

15. During the period May 1, 1998, through December 31, 1998, the applicant leased 1,151 square feet of D Wing to Dr. Cheryl Wildbahn. The monthly rental for this space was \$626.50. Dr. Wildbahn was the only physician who occupied this space. Dr. Wildbahn hired the nurses and ancillary business staff who worked for her in this leased area. Dr. Wildbahn did her

own billings and collections. The area leased to Dr. Wildbahn had separate locks from the rest of D Wing and she had possession of the keys to those locks. (Tr. pp. 22, 25, & 40)

16. During the period May 1, 1998, through December 31, 1998, 1,126 square feet of D Wing was occupied by a pediatrician who was a salaried employee of the applicant. The applicant hired the nurses and ancillary business staff who worked for the pediatrician. The applicant did the billings and collections for the pediatrician. The applicant had possession of the keys to the locks on the doors of the area occupied by the pediatrician. (Tr. pp. 22 & 41)

17. The applicant remodeled D Wing so that it could be used for physicians' offices. In rural communities it is necessary for smaller hospitals to recruit physicians. By having the physician's offices in the hospital it makes their practice as efficient as possible. Having the physicians' offices in the hospital is also a benefit to the hospital. When physicians' offices are in the hospital, the physicians are there when emergencies arise. Also when the physicians' offices are in the hospital the physicians tend to utilize the ancillary hospital facilities for such things as blood tests and x-rays. (Tr. pp. 19 & 20)

18. The applicant, as a hospital, is required to rent the offices on D Wing to the various physicians at fair market value using a market survey pursuant to the fraud and abuse regulations of the United States Health Finance Authority. (Tr. p. 21)

19. The parcel here in issue contains 21.9 acres. The portion of this parcel located North of the hospital buildings and the parking lot and South of Route 34 is a triangular shaped area containing approximately 10 acres. In view of the aging of the population in the Monmouth area, the applicant has retained this 10 acres so that in the future it will have room to expand its long-term care facilities. The applicant has rented this 10 acres to avoid having to landscape it and mow it. The applicant has executed a letter agreement with a local farmer concerning this 10 acres. The farmer pays \$100.00 or \$200.00 a year to rent the land. The farmer then farms the ground and keeps the crops. (Tr. pp. 28-29, 45, Appl. Ex. No. 3)

20. The application stated that 5,846 square feet of D Wing was leased to OSF and was used for doctor's offices. The application also stated that a 3,904 square foot professional

building was leased to Medical Center and was used for doctor's offices. Finally, the application stated that 1,253 square feet of D Wing was leased to Dr. Cheryl Wildbahn. The application made no mention of the area of D Wing leased to the Galesburg Clinic or the 10-acres which was leased for farming. At first review the Department determined that the total square footage of the foregoing three areas leased for doctor's offices constituted 11.3% of the total square feet of the buildings. The Department then determined that 11.3% of the buildings and 11.3% of the site should be taxable for 67% of the 1998-assessment year. (Dept. Ex. Nos. 2 & 3)

21. The evidence and testimony established that 1,154 square feet of D Wing was leased to the Galesburg Clinic which used that area for physicians' offices and 1,151 square feet of D Wing was leased to Dr. Cheryl Wildbahn who used that area as a physician's office. (Tr. pp. 22, 24, 25, 39, & 40)

22. The evidence and testimony established that the 10 acres North of the hospital buildings and the parking lot and South of Route 34 was being farmed. (Tr. pp. 28-29 & 45, Appl. Ex. No. 3)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning charitable organizations, 35 ILCS 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:
(a) institutions of public charity;

(b) beneficent and charitable organizations incorporated in any state of the United States

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989); and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof is on the applicant in this case to establish that it is entitled to an exemption.

It should be pointed out that to qualify for an exemption from taxation as a charity, the applicant must demonstrate that there is ownership by a charitable organization and use for charitable purposes. Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763 (4th Dist. 1987) and Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978).

Based on the Department's determination that 88% of the building and the site qualified for exemption for 67% of the 1998-assessment year at first review in this matter, I conclude that the Department has determined that the applicant is a charitable organization.

I also conclude, based on the warranty deed dated May 1, 1998, that the applicant owned this 21.9 acre parcel and the hospital thereon during the period May 1, 1998, through December 31, 1998.

I take Administrative Notice of the Department's determinations in Docket Nos. 99-48-96 and 92-94-30 in which it was determined that OSF was a charitable organization. The OSF physicians who occupied the physicians' offices on D Wing were salaried employees of OSF. OSF did the billings and collections for these physicians. I therefore conclude that these physicians used this 7,975 square feet of D Wing for the charitable purposes of OSF. In the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972) the Supreme Court determined that when an exempt organization leases property to another exempt organization which used the property for an exempt purpose, the lease will not be considered a lease for profit and the property will remain exempt. I therefore conclude that the 7,975 square feet of D Wing which applicant leased to OSF qualified for exemption for the period May 1, 1998, through December 31, 1998.

I take Administrative Notice of the Department's determination in Docket Nos. 98-72-42 and 86-72-193 in which it was determined that Services and Medical Center respectively, were charitable organizations. Based on the evidence and testimony in this record I conclude that the 3,904 square foot professional office building leased to Medical Center referenced in the application and complaint for exemption is actually the five modular units owned by Services and used by Medical Center from May 1998 through December 31, 1998. The Medical Center physicians who occupied the physicians' offices in the modular units on the parcel here in issue were salaried employees of Medical Center. Medical Center did the billings and collections for these physicians. I therefore conclude that these physicians used these modular units for the charitable purposes of Medical Center. As pointed out above, the Court in Childrens Development Center v. Olson, *supra* determined that when an exempt organization leases property to another exempt organization which used the property for an exempt purpose, the lease will not be considered a lease for profit and the property will remain exempt. I therefore conclude that these five modular units leased to Services by the manufacturer and located on this parcel during the period May through December 31, 1998, qualified for exemption during that period.

Also concerning the modular units leased by Services from the manufacturer which were located on this parcel next to the hospital parking lot and which were used for physicians' offices, there is an additional issue as to whether these units were real property for real estate taxation purposes during the period May 1998, through December 31, 1998. The applicant did not charge rent to Services for the space occupied by these units. These units during 1998 still had the wheels and tongues on them and were resting on concrete piers. In addition the applicant had an agreement with Services that these units would only be located on this parcel temporarily. Applicant would monitor the use of the services of these physicians and then either move them to a permanent building or into the hospital.

The Mobile Home Local Services Tax Act, in defining what "Mobile Homes" it applies to provides at 35 **ILCS** 515/1 as follows:

As used in this Act, "mobile home" means a factory assembled structure designed for permanent habitation and so constructed as to permit its transport on wheels, . . . from the place of its construction to the location, . . . and placement on a temporary foundation, at which it is intended to be a permanent habitation, . . . provided that any such structure resting in whole on a permanent foundation, with wheels, tongue and hitch removed at the time of registration provided for in Section 4 of this Act, shall not be construed as a "mobile home", but shall be assessed and taxed as real property as defined by Section 1-130 of the Property Tax Code

The Property Tax Code at Section 1-130 defines real property as follows:

The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon Included therein is any vehicle or similar portable structure used or so constructed as to permit its use as a dwelling place, if the structure is resting in whole on a permanent foundation.

The Illinois Manufactured Housing and Mobile Home Safety Act defines the term "permanent foundation" as follows:

(1) "Permanent Foundation" means a closed perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which shall include, but not necessarily be limited to, cellars,

basements, or crawl spaces, but does exclude the use of piers.
(Emphasis supplied.)

It is understood that these modular units are used for offices and are not designed nor used as residences. The Supreme Court has determined that the Mobile Home Local Services Tax Act is a privilege tax on owning an inhabitable mobile home. See Berry v. Costello, 62 Ill.2d 342 (1976). In that decision the Court acknowledged that mobile homes, unless they are placed on a permanent foundation, would escape real estate taxation. The same may also be said of the modular units here in issue. In the case of Stone v. Department of Employment Security Board of Review, 151 Ill.2d 257 (1992), the Supreme Court presumed that statutes which relate to one subject were intended by the legislature to be consistent and harmonious with each other. In Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711 (2nd Dist. 1996) the Court used the definition of “permanent foundation” as found in the Illinois Manufactured Housing and Mobile Home Safety Act and applied it to the definition of real estate in the Property Tax Code and the Mobile Home Local Services Tax Act set forth above. Clearly, the modular units here in issue are not on permanent foundations as that term is defined above, and I therefore conclude that said modular units are not subject to real estate taxation.

I therefore conclude that these modular units qualify for exemption pursuant to Childrens Development Center v. Olson, *supra* and in addition qualify as personal property and consequently are not subject to real estate taxation.

Concerning the 1,154 square feet of D Wing that was leased to the Galesburg Clinic, no evidence was presented at the hearing that the Galesburg Clinic was a charitable organization. The Galesburg Clinic hired the nurses and the ancillary business staff for its physicians. Galesburg Clinic also did the billings and collections for its physicians. I find the factual scenario at issue concerning the area of D Wing leased to Galesburg Clinic to be similar to that in the case of Mason District Hospital v. Tuttle, 61 Ill.App.3d 1034 (4th Dist. 1978), in which the Court determined that a physician’s office building owned by a district hospital and used to

recruit physicians to Havana, Illinois, was not used primarily for charitable purposes. The Court in that case concluded as follows:

Although it is clear that the Havana Medical Center has succeeded- at least in part-in attracting physicians to the Havana community and its location has facilitated easy access therefrom to Mason District Hospital (thus benefiting, patient, doctor and hospital alike), it appears to us that the *primary use* of the facility is as offices for the physicians privately practicing there. As such, the center's purpose (although arguably a charitable one incidentally) is primarily noncharitable. (*Id.* at p. 1040)

I therefore conclude that the primary use of the 1,154 square feet of D Wing here in issue during the period May 1, 1998, through December 31, 1998, which was used for offices for the physicians of the Galesburg Clinic who practiced there was not primarily used for charitable purposes.

Concerning the 1,151 square feet of D Wing leased to Dr. Cheryl Wildbahn, since Dr. Wildbahn hired the nurses and the ancillary business staff and also did her own billings and collections I conclude that the facts concerning Dr. Wildbahn are also similar to the facts in Mason District Hospital v. Tuttle, *supra*. I therefore conclude that the primary use of the 1,151 square feet of D Wing here in issue during the period May 1, 1998, through December 31, 1998, was for the use and benefit of Dr. Wildbahn, and not primarily for charitable purposes.

I take Administrative Notice of the Department's determination in this matter on first review that a portion of the property at issue qualified for exemption and conclude that the Department has determined that the applicant is a charitable organization. During the period May 1, 1998, though December 31, 1998, 1,126 square feet of D Wing was occupied by a pediatrician who was a salaried employee of the applicant. The applicant hired the nurses and ancillary business staff who worked for the pediatrician. The applicant did the billings and collections for the pediatrician. I therefore conclude that this 1,126 area was used by the pediatrician for the charitable purposes of the applicant.

Concerning the 10 acres of this parcel located North of the hospital buildings and the parking lot and South of Route 34 which were leased by the applicant to a farmer for cash rent during the period May 1, 1998, through December 31, 1998, the Illinois Courts have consistently stated the general principle that the use of property to produce income is not an exempt use. People ex rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136 (1924). *See also* The Salvation Army v. Department of Revenue, 170 Ill.App.3d 336 (2nd Dist. 1988), leave to appeal denied. It has also been held that a lease to a non-exempt entity is a lease for profit whether the lessor generates a profit or sustains a loss. *See* Turnverein "Lincoln" v. Board of Appeals, 358 Ill. 135 (1934). I therefore conclude that the aforesaid 10 acres did not qualify for exemption during the period May 1, 1998, through December 31, 1998 as it was leased or otherwise used for profit.

I therefore recommend that Warren County Parcel Index No. 09-044-087-00 be exempt from real estate taxation for the 67% of the 1998-assessment year that the applicant owned said parcel, except for 2,305 square feet of D Wing and a proportionate amount of land on which D Wing is located, and the ten acres which were leased for farming. I further recommend that the 2,305 square feet of D Wing and a proportionate amount of land on which D Wing is located, and the ten acres which were leased for farming be taxable for the 67% of the 1998-assessment year that the applicant owned said parcel.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
September 28, 2000